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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,464	01/16/2002	Steven B. Daum	1814-0001	6099
530	7590	06/01/2006	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			SMITH, JEFFREY A	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/050,464	DAUM, STEVEN B.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jeffrey A. Smith	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 March 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
  - 4a) Of the above claim(s) 1-9 is/are withdrawn from consideration.
- 5) Claim(s) 10-15 is/are allowed.
- 6) Claim(s) 16-21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 March 2006 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

**DETAILED ACTION**

***Response to Amendment***

The response filed March 20, 2006 has been entered and considered.

Claims 1-9 are withdrawn.

Claims 10-21 are pending

Claims 10, and 16 have been amended.

An action on the merits of claims 11-21 follows.

***Drawings***

The drawings were received on March 20, 2006. These drawings are approved.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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Claims 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over [www.ebizjets.com](http://www.ebizjets.com) (Ref. U mailed October 11, 2005).

The [www.ebizjets.com](http://www.ebizjets.com) website discloses the fractional aircraft ownership model substantially as recited. The [www.ebizjets.com](http://www.ebizjets.com) website further contains a reprinted article published originally by Millionaire Magazine. The article notes a revenue generating mechanism which charters aircraft from the ebizjets fleet which otherwise would be operated as a "deadhead" (or essentially unoccupied) flight.

The [www.ebizjets.com](http://www.ebizjets.com) website, however does not disclose that the fleet is operated in a similar manner to conduct regular, repeating scheduled flights.

It would have been obvious to one of ordinary skill in the art to have operated the fleet of ebizjets to have performed regular, repeating scheduled flights (such as those of similar to commercial airlines) in order to have cut costs to ebizjets and its associated fractional aircraft owners by maximizing the passenger usage of the fleet. For example, rather than operating a large number of deadhead flights, the skilled artisan would have rotated a number of otherwise unoccupied or unused aircraft into service along regular, repeating scheduled flights.

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Although the [www.ebizjets.com](http://www.ebizjets.com) website is silent to the manner in which its reservation system determines and stores use allocation, it is clear that such functions are performed. Nonetheless, it would have been obvious to one of ordinary skill in the art to have provided such functions using a computer based reservation system in order to have managed the complexities involving scheduling, reserving, and use allocation accounting for numerous flights across a fleet of aircraft and a multitude of fractional-owner users. The implementation of a computer based system would have been readily recognized by the skilled artisan in order to have simplified and enhanced any manual management of the same information.

***Allowable Subject Matter***

Claims 10-15 are allowable over the prior art of record.

***Reasons for Indication of Allowable Subject Matter***

The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record neither anticipates nor fairly and reasonably teaches a method comprising, *inter alia*, in a computer based reservation system, reducing and storing the use allocation for more than one fractional owner after a single

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flight that includes at least one passenger associated with each of the more than one fractional owner.

As per the specification at pages 3-4:

" The method also includes determining a use allocation for each fractional owner in an amount based on a fraction of the first aircraft owned by the fractional owner, the use allocation comprising a measure of flight usage of one or more fractionally-owned aircraft including the first aircraft. The method further includes reducing the use allocation for more than one fractional owner after a single flight that includes at least one passenger associated with each of the more than one fractional owners.

By reducing the use allocation for more than one fractional owner for a single flight, the cost of the flight is effectively borne by more than one fractional owner. Thus, as long as sufficient room exists on the flight to accommodate several fractional owners, the cost of that flight may be split among several parties. Such cost splitting can enable use of fractionally purchased aircraft having relatively large space per passenger and accompanying amenities, all at a reasonable cost."

The most representative reference of the state of the prior art is to Maynard, Micheline: "Corporate Planes: Perks or Necessities?"; The New York Times (Late Edition (East Coast)); New York NY; September 23, 2001; page 3.6 (hereafter "Maynard").

Maynard reports on a typical fractional-ownership allocation scheme in which shares in a business jet are purchased. A fractional-owner purchases shares in increments of one-sixteenth ownership interests. Each share equals a number

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of use allocation units (in this case: 1 share equals 50 hours of actual flying time in a Citation V having 8 seats).

Additional fees are added for various services associated with the operation of the jet and an associated fleet. In all cases, however, all owner costs are borne by that fractional owner alone. Although some of the additional fees charged (for fleet maintenance, for example) might be reasonably construed as being shared among the fractional owners, none of the prior art of record reasonably teaches or suggests reducing and storing the use allocation for more than one fractional owner after a single flight that includes at least one passenger associated with each of the more than one fractional owner.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 16-21 filed March 20, 2006 have been fully considered but they are not persuasive.

Applicant remarks that "[www.ebizjets.com] fails to teach or suggest a reservation system that determines and stores allocation uses as required by amended claim 16 and by claims 17 to 21 that depend from claim 16".

The Examiner notes that www.ebizjets.com offers a computerized web-site presence and manages the reservations and

allocations for a multitude of fractional-owners. The management of these reservations and allocation accounts using a computer-based reservation system would have been well within the level of skill in this field given the complex nature of the tasks involved.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Shirooka (JP 63080363 A) discloses a reception system for aircraft seat reservation.

Creed et al. (US 2002/0194037 A1) discloses a method and system for providing private air travel to a plurality of customers.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS

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of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Smith whose telephone number is (571) 272-6763. The examiner can normally be reached on M-F 6:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert M. Pond can be reached on 571-272-6760. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jeffrey A. Smith  
Primary Examiner  
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